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## COMMONWEALTH of VIRGINIA

W. Tayloe Murphy, Jr.  
Secretary of Natural Resources

### DEPARTMENT OF ENVIRONMENTAL QUALITY

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Director

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Regional Director  
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### **STATE WATER CONTROL BOARD ENFORCEMENT ACTION**

#### **A SPECIAL ORDER BY CONSENT ISSUED TO**

**Travel Centers of America  
UST and AST Facilities at Travel Centers of America #143  
1025 Peppers Ferry Road  
Wytheville, Virginia 24382  
Facility Identification No. 1-009494**

#### **SECTION A: Purpose**

This is a Special Order by consent issued under the authority of §§ 62.1-44.15(8a) and (8d) of the Code of Virginia issued by the State Water Control Board between the Board and Travel Centers of America to resolve certain violations of the State Water Control Law and regulations at Travel Centers of America's #143 Underground and Above Ground Storage Tank Facilities located at 1025 Peppers Ferry Road, Wytheville, Virginia 24382.

#### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
2. "Code" means the Code of Virginia (1950), as amended.
3. "The Facility" means the Travel Centers of America #143 retail gasoline station and USTs and ASTs located at 1025 Peppers Ferry Road, Wytheville, Virginia. The Facility's USTs and ASTs are further identified as Facility ID # 1-009494, with UST numbers 1, 2, 3, 4, 5, 6 and 8, and with one unregistered AST.

| Tank number | 1      | 2      | 3      | 4        | 5        | 6        | 8              |
|-------------|--------|--------|--------|----------|----------|----------|----------------|
| Capacity    | 20000  | 20000  | 20000  | 10000    | 10000    | 10000    | 1000           |
| Contents    | diesel | diesel | diesel | Gasoline | Gasoline | Gasoline | Used motor oil |
| Installed   | 1978   | 1978   | 1978   | 1978     | 1978     | 1978     | 12/97          |

4. "The Owner" means Travel Centers of America, the UST and AST owner within the meaning of Virginia Code § 62.2-44.34:8 and § 62.2-44.34: 10, respectively.
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
5. "Director" means the Director of the Department of Environmental Quality.
6. "Order" means this document, also known as a Consent Special Order.
7. "Regional Office" means the Southwest Regional Office of DEQ, located in Abingdon, Virginia.
8. "UST" means underground storage tank as further defined in 9 VAC 25-580-10.
9. "UST Regulations" means 9 VAC 25-580-10 *et seq.* (Underground Storage Tanks: Technical Standards and Corrective Action Requirements), relating to upgrading of existing UST systems, registration of tanks, closure of non-compliant tanks, and release detection requirements.
10. "Notification Form" means the 7530 UST notification form used by the DEQ to register and track USTs for proper operation, closure and ownership purposes. See 9 VAC 25-580-70.
11. "AST" means aboveground storage tank as further defined in 9 VAC 25-91-10.
12. "AST Regulations" means 9 VAC 25-91-10 *et seq.* (Facility and Aboveground Storage Tank (AST) Regulations), relating to registration, notification, and closure requirements, pollution prevention requirements and oil discharge contingency plan requirements.
13. "Registration Form" means the Form 7540-AST registration form used by the DEQ to register and track ASTs for proper operation, closure and ownership purposes. See 9 VAC 25-91-100.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. Travel Centers of America is the UST and AST owner at the Facility within the meaning of Virginia Code § 62.2-44.34:8 and § 62.2-44.34: 10.
2. The UST Regulations require that all USTs, such as those at the Facility to meet final, specific performance requirements for leak detection, spill and overfill prevention, and corrosion protection by December 22, 1998.
3. On September 15, 2003, DEQ sent two letters to Travel Centers of America: a Warning Letter citing apparent violations for USTs; and a letter asking Travel Centers to register its AST (collectively referred to as "September Correspondence"). The September Correspondence cited Travel Centers for apparent violations observed during a formal inspection of the Facility on August 28, 2003. With respect to the USTs, the Department requested that Travel Centers submit documentation demonstrating compliance with the UST Regulations by December 1, 2003. With respect to the AST, the Department requested that Travel Centers of America submit a registration form by October 15, 2003.
4. At the request of Travel Centers of America, DEQ extended both due dates to March 1, 2004. The extension was confirmed by letter dated February 6, 2004. Despite the extension, Travel Centers did not submit any documents demonstrating compliance with the UST or AST Regulations by March 1, 2004.
5. Accordingly, on June 2, 2004, DEQ issued Travel Centers a Notice of Violation identified as NOV No. 015-0604-GW. The NOV again cited Travel Centers of America for apparent violations of the UST and AST Regulations based on its failure to comply with these regulations.
6. On July 27, 2004, Travel Centers partially complied with the requirements contained in the September Correspondence and the NOV. However, Travel Centers failed to demonstrate that it complied completely with all of the requirements cited in the September Correspondence and the NOV.
7. The Department conducted a site visit at the Facility on August 19, 2004, to verify that Travel Centers of America performed the work necessary to correct the apparent violations contained in the NOV. The site visit revealed that Travel Centers of America did not correct many of the apparent violations cited in the NOV as listed below:
8. 9 VAC 25-580-140 requires owners of USTs to maintain records demonstrating that interstitial monitoring system alarms have been checked at least every 30 days. Travel Centers of America failed to maintain those records demonstrating that the alarm has been tested for the used oil tank, Tank 8. During the Department's site visit at the Facility on August 19, 2004, the alarm system did not appear to be operational.

9. 9 VAC 25-580-140 requires tank tightness testing be performed at least every five years for tanks which utilize inventory control as the primary leak detection method. Travel Centers of America has not submitted tank tightness test results for Tanks 1,2 and 3, or Tanks 4,5 and 6.
10. 9 VAC 25-580-60 requires that cathodic protection be installed on all metal components of an UST system that routinely contains product if it is in contact with the ground. Travel Centers of America has not submitted documentation that verifies that the flex connectors and metal pipe fittings under the diesel dispensers have been equipped with cathodic protection or verifies that all corrosive material, such as dirt, gravel, water, etc. has been removed from around the flex connectors and pipe fittings.
11. 9 VAC 25-580-60 requires that cathodic protection be installed on all metal components of an UST system that routinely contains product if it is in contact with the ground. Travel Centers of America has not submitted cathodic protection system test results that verifies either that the piping leading to the diesel dispenser at the automotive fueling center is equipped with a cathodic protection system or that the piping is constructed of a material other than metal.
12. 9 VAC 25-580-50 requires USTs to be equipped with an overfill device that is capable of shutting off the flow of product into the tank when the tank is no more than 95% full or that is capable of alerting the transfer operator when the tank is no more than 90% full by restricting the flow or by an alarm. Travel Centers of America has not submitted documentation that verifies that the premium unleaded tank is equipped with an overfill device that meets the requirements contained in 9 VAC 25-580-50.
13. 9 VAC 25-580-70 requires that owners of USTs submit an amended Notification Form whenever the owner or operator makes a change to the UST system or whenever other information provided on the original Notification Form has changed. Travel Centers of America has not submitted an amended Notification Form to reflect the UST systems' current conditions.
14. 9 VAC 25-590-40 requires owners of USTs to demonstrate that they have a financial responsibility mechanism for taking corrective action and for compensating damaged third parties. Travel Centers of America has failed to submit completed information to show that it has a financial responsibility mechanism for the UST systems at the Facility.
15. 9 VAC 25-91-100 requires ASTs with a capacity greater than 660 gallons to be registered with the Department. Travel Centers of America has not submitted a completed registration form for the AST at the facility.

#### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15 (8a) and (8d), and Va. Code § 62.1-44.34:20D orders Travel Centers of America and Travel Centers of America agrees:

1. To remedy the violations described above and bring the Facility into compliance with the Regulation, Travel Centers of America shall perform the actions described in Appendix A of this Order.
2. Travel Centers of America shall pay a civil charge of **\$6,500.00** within **30 days** of the effective date of the Order. Payment shall be made by check, certified check, money order, or cashier's check payable to the "Treasurer of Virginia", and sent to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240

The payment shall include Travel Centers of America's Federal ID number and shall state that it is being tendered in payment of the civil charges assessed under this Order.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Travel Centers of America, for good cause shown by Travel Centers of America, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Travel Centers of America admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Travel Centers of America consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

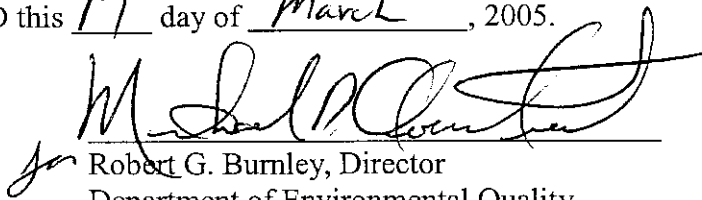
5. Travel Centers of America declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Travel Centers of America to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Travel Centers of America shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Travel Centers of America shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Travel Centers of America shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which Travel Centers of America intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and Travel Centers of America. Notwithstanding the foregoing, Travel Centers of America agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Travel Centers of America. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Travel Centers of America from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Travel Centers of America voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 17<sup>th</sup> day of March, 2005.

  
for Robert G. Burnley, Director  
Department of Environmental Quality

Travel Centers of America voluntarily agrees to the issuance of this Order.

Date: 12-13-04

By: David C. Cummings

Title: Environmental Associate

~~Commonwealth of Virginia~~ State of OHIO

City/County of Cuyahoga

The foregoing document was signed and acknowledged before me this 13<sup>th</sup> day of  
December, 2004, by David C. Cummings, who is  
Assoc. (name)  
Environmental of Travel Centers of America, on behalf of the Corporation.  
(title)

Sue A. Portman

Notary Public

My commission expires: March 10, 2009

**SUE A. PORTMAN**  
**NOTARY PUBLIC, STATE OF OHIO**  
**Recorded in Cuyahoga County**  
**My Comm. Expires Mar. 10, 2009**



## APPENDIX A

Travel Centers of America shall complete the following items:

1. Travel Centers of America shall test the interstitial monitoring alarm system for Tank No. 8 every 30 days. Travel Centers of America shall maintain the test results at the Facility that document that it has tested the interstitial monitoring alarm system for Tank No. 8 at least every 30 days, as required by 9 VAC 25-580-140.
2. Within **60 days** of the effective date of the Order, Travel Centers of America shall submit tank tightness test results for Tanks 1, 2, 3, 4, 5 and 6, as required by 9 VAC 25-580-140.
3. Within **30 days** of the effective date of the Order, Travel Centers of America shall submit documentation verifying that the flex connectors and metal pipe fittings under the diesel dispensers are equipped with cathodic protection or submit documentation verifying the removal of all corrosive material (e.g. dirt, gravel, water, etc.) from around the flex connectors and pipe fittings, as required by 9 VAC 25-580-60.
4. Within **60 days** of the effective date of the Order, Travel Centers of America shall submit either 1) the cathodic protection system test results verifying that the piping leading to the diesel dispenser at the automotive fueling center has been equipped with a cathodic protection system; or 2) submit documentation verifying that the piping has been constructed of a material other than metal as required by 9 VAC 25-580-60.
5. Within **60 days** of the effective date of the Order, Travel Centers of America shall submit documentation verifying that the premium unleaded tank is equipped with an overfill device that meets the requirements of 9 VAC 25-580-50.
6. Within **30 days** of the effective date of the Order, Travel Centers of America shall submit an amended Notification Form for the USTs systems at the Facility as required by 9 VAC 25-580-70.
7. Within **60 days** of the effective date of the Order, Travel Centers of America shall submit complete information demonstrating that it has a financial responsibility mechanism for the USTs systems at the Facility as required by 9 VAC 25-590-40.
8. Within **30 days** of the effective date of the Order, Travel Centers of America shall submit a completed Registration Form for the AST as required by 9 VAC 25-91-100.